

IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA

RONALD BANKS,	)
PLAINTIFF,	) C.A. No. 06- 253
	)
v.	) District Judge Joy Flowers Conti
	) Magistrate Judge Lisa Pupo Lenihan
JEFFREY A. BEARD, JOHN S.	)
SHAFFER, DONALD T. VAUGHN,	)
DONALD WILLIAMSON,	)
DR. FREDERICK MAUE, DR, LANCE	)
COUTURIER, SUPERINTENDENT	)
DAVID J. GOOD, MICHAEL F.	)
KNOTT, KAREN NOLAN, FRANCIS	)
PIROZOLLA, LADD OWEYO, DAVE	)
ROBERTS, JAMES HARRINGTON,	)
JAMIE BOYLES,	)
	)
DEFENDANTS.	)

**MAGISTRATE JUDGE'S REPORT AND RECOMMENDATION**

**I. RECOMMENDATION**

It is respectfully recommended that all claims in the above-captioned complaint, except Plaintiff's religious freedom claims, be dismissed as being the same claims raised and being litigated in Civil Action No 02 - 1533.

**II. REPORT**

Plaintiff is a prisoner currently confined at the State Correctional Institution at Fayette, Pennsylvania. On October 25, 2006, in the United States District Court for the Middle District of Pennsylvania, Plaintiff filed a complaint alleging violations of 42 U.S.C § 1983 with regard to the conditions of confinement in the Long term Segregation Unit at SCI-Fayette. On November 30, 2006, the Middle District Court transferred this complaint to the United States District Court for the Western District of Pennsylvania and it was referred to Magistrate Judge Lisa

Pupo Lenihan for pre-trial proceedings in accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1), and Rules 72.1.3 and 72.1.4 of the Local Rules for Magistrate Judges.

Subsequently, Plaintiff filed two motions for class certification (doc. nos. 10 and 39) and two motions for appointment of counsel (doc. nos. 11 and 40). On July 9, 2007, this Court issued an Order (doc. no. 43) denying Plaintiff's Motions to Certify a Class Action but granting his Motions for Appointment of Counsel and directed the Allegheny County Bar Foundation of the Allegheny County Bar Association to request a lawyer to consider entering an appearance on behalf of the Plaintiff to determine if he or she is willing to pursue a class action.

Shortly thereafter, this Magistrate Judge became aware that Plaintiff filed a complaint on September 5, 2002, in Civil Action No. 02 - 1533, pending before district Judge Joy Flowers Conti, wherein he is raised the same claims that he is attempting to raise in the above-captioned complaint. He is represented by court appointed counsel in that action. The only claims not raised in Civil Action No. 02-1533 are his religious freedom claims wherein he alleges that he and other prisoners have been denied reasonable accommodations for their religious requests, including the ability to obtain a Qur'an, a prayer rug, and a clock to inform him and other prisoners of the correct time to pray during the month of Ramadan. He further avers that he was denied the ability to wear a kufee, a religious garment and that the prison failed to provide an Islamic chaplain.

Other than the allegations of violations of his religious freedoms, the complaints in Civil Action No. 02-1533 and the above captioned action are virtually identical. Plaintiff may not litigate identical claims in two separate actions hoping for the best result; judicial resources are far too scarce too squander in such manner. Accordingly, except Plaintiff's claims of violations of his religious freedoms, all claims in Civil Action No. 06- 253 should be dismissed.

### **III. CONCLUSION**

For the reasons set forth above, it is respectfully recommended that all claims in the above-captioned complaint, except Plaintiff's religious freedom claims, be dismissed as being the same claims raised and being litigated in Civil Action No 02 - 1533.

In accordance with the Magistrate Judges Act, 28 U.S.C. § 636(b)(1)(B) & (C), and Local Rule 72.1.4 B, the parties are allowed ten (10) days from the date of service to file written objections to this report. Any party opposing the objections shall have 10 days from the date of service of the objections to respond thereto. Failure to timely file objections may constitute a waiver of any appellate rights.

A handwritten signature in black ink, appearing to read 'Lisa Pupo Lenihan', written over a horizontal line.

Lisa Pupo Lenihan  
U.S. Magistrate Judge

Dated: September 14, 2007

cc: The Honorable Joy Flowers Conti  
United States District Judge

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